

1 from occurring inside the prisons. (Doc. #23, pp. 2-3.)

2 – confidential documents should not be disclosed to the public. (pp. 3-7).
 3 – the Department of Corrections Administrative Regulations establish that
 4 penological interests are reasonably related to a legitimate purpose. (pp. 8-11.) In that
 5 regard, the defendants demonstrate a “rational connection between restricting the intra-
 6 prison flow of information concerning inmates’ medical records and promoting the
 7 institutional safety and security of prison.” (*id.*, at 9.) The defendants contend the inmate
 8 may request review of his records and the exhibit(s) filed under seal. (*id.*).¹

9 The defendants also outline security concerns regarding the impact of allowing one
 10 inmate to possess medical records and the “ripple effect” prison wide which would likely
 11 occur (*id.*, at pp. 10-11). The last factor is the lack of reasonable alternatives to allowing inmate
 12 access to medical records versus keeping medical information confidential (*id.*, at pp. 10-11).

13 The court is not entirely convinced that all prison records, such as medical and dental
 14 records, must remain sealed. Nevertheless, the court recognizes that courts have found that
 15 the need to protect medical privacy qualifies as a “compelling reason.” *See, e.g., San Ramon*
 16 *Regional Med. Ctr., Inc. v. Principal Life Ins. Co.*, 2011 WL 89931, at *n.1 (N.D. Cal. Jan. 10,
 17 2011); *Abbey v. Hawaii Employers Mut. Ins. Co.*, 2010 WL 4715793, at *1-2 (D. HI. Nov. 15,
 18 2010); *G. v. Hawaii*, 2010 WL 267483, at *1-2 (D. HI. June 13, 2010); *Wilkins v. Ahern*, 2010
 19 WL 3755654 (N.D. Cal. Sept. 24, 2010); *Lombardi v. TriWest Healthcare Alliance Corp.*,
 20 2009 WL 1212170 at * 1 (D. Ariz. May 4, 2009).

21 In *Abbey*, the Court found that “[t]he need to protect medical privacy qualifies as a
 22 compelling reason” to allow such records to be filed under seal. *Abbey, supra*, at p. 1. In
 23 *G. v. Hawaii*, the Court stated the *Kamakana* requirements of compelling reasons must be
 24 articulated “to support secrecy.” The court found that retaining medical records confidential

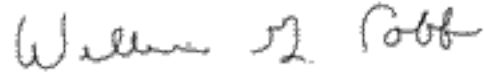
25
 26 ¹ The explanation the prisoner may view his records upon submission of a “kite” has on one or
 27 more occasions been troubling to the court. The court has certain concerns that the prison provides a
 28 sufficient “alternative means” to plaintiff.” (Doc. #27, p. 10.) For example, in *McCabe v. Gibbons*,
 3:09-cv-00244-LRH-WGC, the prisoner contended he was only allowed to view his medical records for
 half an hour, while standing - shackled - having to ask the prison staff to turn the pages. (*Id.*, Transcript
 of Hearing, Doc. #71.)

1 was justified, citing case authority that “medical records have long been recognized as
2 confidential in nature.” *G. v. Hawaii, supra*, at p. 2; citations omitted.

3 Therefore, in the instant matter, the court believes the defendants have carried their
4 burden under *Kamakana* and, therefore, Exhibit L shall be filed under seal.²

5 **IT IS SO ORDERED.**

6 DATED: December 9, 2011.

7 

8 WILLIAM G. COBB
9 UNITED STATES MAGISTRATE JUDGE
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

26 ² Counsel for defendants, however, should be aware that this is not a “blanket order” which will
27 apply to all prisoner §1983 litigation where medical record are sought to be used as an exhibit. The
28 court is of the opinion that under certain limited circumstances, greater prisoner access to medical
records may be justified.